

Members:

Sen. Robert Meeks, Chairperson
Sen. Becky Skillman
Sen. Rose Ann Antich
Sen. Allie Craycraft
Rep. David Crooks
Rep. Dan Stevenson
Rep. Robert Alderman
Rep. John Ulmer



RAIL CORRIDOR SAFETY COMMITTEE

Legislative Services Agency

200 West Washington Street, Suite 301

Indianapolis, Indiana 46204-2789

Tel: (317) 232-9588 Fax: (317) 232-2554

LSA Staff:

Anne Haley, Attorney for the Committee
James Sperlik, Fiscal Analyst for the Committee

Authority: P. L. 87-1997

MEETING MINUTES

Meeting Date: October 13, 1998
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington St.,
156-A
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Sen. Robert Meeks; Sen. Rose Ann Antich; Sen. Allie Craycraft; Rep. David Crooks; Rep. Dan Stevenson; Rep. Robert Alderman .

Members Absent: Sen. Becky Skillman; Rep. John Ulmer.

Sen. Meeks convened the meeting at 10:15 a.m. Sen. Meeks thanked Mr. Dennis Faulkenberg, Indiana Department of Transportation (InDOT), for his efforts in the Transportation Equity Act for the 21st Century (TEA 21). Mr. Dennis Faulkenberg, InDOT, updated the Committee on TEA 21.¹ Mr. Faulkenberg explained that under the old ISTEA funding, Indiana was a donor state, receiving back 78% of the gas tax it collected. In contrast, other states like Massachusetts, received \$2.41 for every one dollar of gas tax collected. Mr. Faulkenberg stated that InDOT's goal was to get a more equitable distribution of the tax. They were successful in obtaining a 90.5% rate of return. In terms of dollars, he stated that this means a \$212 million average increase for Indiana roads. Mr. Faulkenberg explained that 75% percent of the money goes to

¹Materials distributed by Mr. Faulkenberg on the TEA 21 Act are on file at the Legislative Information Center, Room 230, State House, Indianapolis, Indiana. The telephone number of the Legislative Information Center is (317) 232-9856, and the mailing address is 200 West Washington St., Suite 301, Indianapolis, Indiana 46204-2789.

InDOT and 25% percent of the money goes to cities, towns, counties, and municipal planning organizations (MPOs). He stated that the Indiana delegation strongly supported the proposal, detailing the efforts of Rep. Pease, Sen. Coats and Sen. Lugar. He discussed the state's Capital Construction Program. He stated that local governments need to look at how they are going to get the 20% match money for the federal funds because InDOT has a limited amount of match money. Mr. Faulkenberg discussed the railroad program. He stated that while Indiana is required to spend \$4.8 million dollars in federal money on rail safety projects, InDOT always spends more than this. The TEA 21 gives InDOT more federal money that is not earmarked for rail projects, but InDOT has the option of spending on rail projects.

Sen. Antich asked if it is true that northwest Indiana won't get any money for programs to begin next year because the Northwest Indiana Regional Planning Commission (NIRPC) failed to meet the April deadline for obtaining federal funds.

Mr. Faulkenberg stated that northwest Indiana is a non-attainment area and they don't have an approved Transportation Improvement Plan (TIP). Ms. Cris Klika, InDOT, stated that InDOT is working with NIRPC closely. It is not certain that NIRPC will lose funding for the projects, but they are in danger of doing so. She explained that there are computer bugs in the air quality model. She stated that NIRPC is trying to get a TIP plan approved in time to save the construction season.

Sen. Antich remarked that NIRPC is the only MPO in the nation that has not gotten the TIP completed. She stated that the reason for this is because NIRPC is sloppily run. Ms. Klika stated that NIRPC is in a unique situation. While some of its failure may be due to a lackadaisical attitude, some its problems may also be due to the way the transit systems work together in that area. She stated that from this point forward they are focused on correcting the air quality model. Sen. Antich stated that she heard there is no hope of getting the TIP approved in 1998. Ms. Klika indicated that she will be discussing strategy with NIRPC. She stated that it is possible to get it done this year or in January. Sen. Antich stated that she heard it would be February before the model was completed.

Sen. Meeks asked how much federal money northern Indiana is losing. Mr. Faulkenberg responded that northwest Indiana would lose many millions.

Sen. Antich stated that she wanted InDOT to give her copies of all letters between InDOT and NIRPC regarding highway projects for the past three years.

Sen. Meeks asked if there has been any discussion of transferring money out of the highway funds to fund rail safety projects. He pointed out that a railroad has the responsibility of maintaining a crossing once it is established. He stated that the Committee is considering adding funds to the industrial rail service fund for short line railroads. In addition, the Committee is considering having the state maintain crossings that cross state highways.

Mr. Faulkenberg stated that InDOT has discussed having the state maintain railroad crossings but they have no real sense of the cost. He stated that even with the payment responsibility as it is now, Indiana spends almost \$10 million dollars annually on railroad crossings, about \$5 million in addition to the \$4.8 million in federal funds that are required to be spent on railroad safety projects.

Sen Meeks stated that he wants InDOT to put a dollar value on the maintenance of railroad crossings. Sen. Meeks stated that he is aware the maintenance expense is large to the railroads. Mr. Faulkenberg stated that it is a good cause, but InDOT has a

limited capital projects budget. Sen. Meeks stated that the maintenance responsibility could be changed legislatively. Mr. Faulkenberg stated that if the legislature could see the figures for maintaining the railroad crossings it would be possible to translate the cost into miles of roads that would not get worked on. The legislature would then be able to make a policy decision between spending dollars for railroad crossing maintenance and spending dollars for roadwork.

Sen. Meeks stated that InDOT needs to look at other states that fund railroad crossing maintenance. He indicated that the state needs to be true to its commitment to the railroads. He thanked Mr. Faulkenberg again for his efforts and excellence in working for Indiana.

Since a quorum was present, the Committee adopted the minutes of the last meeting.

Mr. Gerry Thomas, Hoosier Southern Railroad, Indiana Rail Transportation Group (IRTG), testified on his short line railroad's costs in maintaining railroad crossings. He estimated that it costs \$3000 per crossing per year. He stated that there are 1300 miles of short line track. Over half of the trains cannot travel faster than ten miles per hour. He stated that in order to be competitive, short lines need to travel faster.

Ms. Cathy Hale, Madison Railroad, IRTG, stated that the city of Madison only has one crossing with signals. She said that when the state expanded a highway from two to five lanes, the state required the installation of a \$100,000 railroad crossing. She stated that now the railroad is required to repair the crossing which will cost one-fourth of the railroad's budget, an estimated \$40,000 to \$50,000. There is no funding available for this from InDOT. She stated that the railroad has 44 crossings located on their track.

Rep. Stevenson stated that he supports the state assuming responsibility for maintenance of the crossing but objects to local units being forced to assume this responsibility.

Mr. Steve Hull, InDOT, stated that current law says that whoever causes a railroad crossing to be created must pay for the crossing. Therefore, if InDOT widens a road, InDOT must pay for construction of the crossing. State law says, however, that the railroads are responsible for maintaining the crossings.

Mr. Gerry Thomas, Hoosier Southern Railroad, IRTG, stated that his railroad spent over \$750,000 due to the new industrial plants that entered the area.

The Committee discussed the proposal to change the distribution of sales and use tax, reducing the percentage of sales tax dedicated to the public mass transit fund (PMTF) and increasing the percentage of sales tax dedicated to the industrial rail service fund. Preliminary Draft 3462 which was discussed by the Committee reduced the PMTF from .76% to .68% and increased the Industrial Rail Service Fund from .04% to .12%.² Preliminary Draft 3468 reduced the PMTF from .76% to .69% and increased the Industrial Rail Service Fund to .11%.³ Information was submitted showing the effect

²Preliminary Draft 3462 is on file at the Legislative Information Center (See footnote 1).

³Preliminary Draft 3468 is on file at the Legislative Information Center (See footnote 1).

on PMTF allocations to public transit systems under the preliminary drafts.⁴

Mr. Kent McDaniel, Indiana Transportation Association, stated that the proposed cut to the PMTF would not be minimal to the public mass transit systems. He stated that he hoped the new assistance from TEA 21 would make up for the severe cuts these systems received in the past.⁵ He stated that there are increasing demands for new public mass transit systems. He pointed out that every time a new system is added, less funds are available for existing systems. He stated that a 1994 study indicated that for every \$1 invested, they received a return of \$1.38. He stated that other benefits are less obvious. In Muncie, the transit system provided to high school students free bus service to school, saving the Muncie school corporations \$130,000. Mr. McDaniel explained that transit systems have been subject to unfunded mandates as a result of the Americans With Disabilities Act (ADA). The ADA requires a transit system that expands its fixed route service to also expand door-to-door service for the disabled. He stated that he hopes that with the enactment of TEA 21 more dollars will be available for transit systems. Mr. McDaniel stated that short line railroads may have a real need but it does not make policy sense to hurt one body to help another.

Rep. Alderman asked whether in the last five years there has been a loss or gain in ridership. Mr. McDaniel stated that in the last year, they have had a 3.5% increase in new riders or about 1 million new riders. He said that in some years they have a drop in ridership, so probably the ridership has remained at the same level for the past five years.

Sen. Antich asked whether money from the PMTF is given to the MPOs to distribute. Mr. McDaniel stated that NIRPC is the only MPO which receives the money directly.

Sen. Meeks indicated that there is a consensus that this \$26 million from the PMTF is fluff money to the public mass transit providers who try to spend it in the last 30 days of the year. Sen. Meeks pointed out that the sales tax has increased over the years, thereby increasing the amount of money in the PMTF from \$16 million to \$26.5 million. Sen. Meeks asked why the transit systems need these increased funds when the railroads receive much less. Mr. McDaniel stated that 24% is what the state provides for all public mass transit services. He indicated that 2/3 to 90% of the PMTF is spent for this year. Sen Meeks asked who accounts for how the PMTF money is spent.

Mr. Larry Buckel, InDOT, stated that InDOT administers the PMTF, distributing the PMTF money on a calendar year basis. PMTF recipients submit quarterly reports to InDOT. He indicated that recipients are encouraged to draw their total PMTF allotment as soon as possible if they have the required match money.

Sen. Meeks asked if recipients spend PMTF money on large equipment. Mr. Buckel stated that this never happens. Sen. Antich pointed out that if the transit systems make quarterly reports, InDOT should be able to keep track of this. Mr. Buckel stated that most systems divide the calendar year into quarters and try to draw the PMTF into four equal allotments. The annual report produced by InDOT is a

⁴ The handout is on file at the Legislative Information Center (See footnote 1).

⁵Information concerning Mr.McDaniel's testimony is on file at the Legislative Information Center (See footnote 1).

compilation of these quarterly reports.⁶ He stated that InDOT reimburses the public mass transit systems for expenditures the systems actually made in that quarter.

Mr. Marty Sennett, indicated that a reduction in PMTF funding would impact on Lafayette. With regard to the issue of welfare, he noted that counties report that transportation is the biggest barrier in getting people to jobs. He explained that Lafayette has expanded service to Sunday so people on welfare can get to the hotels to work. He stated that 323 needy families rely on this service. He indicated that if PMTF funds are reduced, service cuts including cuts to Sunday service would occur. He stated that the Lafayette public mass transit system receives one-third of its budget from the PMTF; the rest of its budget comes from federal funds, fares, and property taxes. He stated that while TEA 21 increases transit funding, the money does not come to small operators.

Ms. Cris Klika, InDOT, stated that InDOT opposes any change in the funding distribution from the PMTF.⁷ She stated that public mass transit may be important in the future as Indiana's population grows and Indiana has to face air quality issues. She discussed Indiana's air quality issues.

Rep. Stevenson stated that he believes the short line railroads need financial assistance, but not from local or property taxes. He stated that the Committee should find ways other than the PMTF to give the short lines assistance.

Sen Craycraft agreed that the Committee should look at some other way to help the short line railroads. He suggested that short lines could go to a legislator and get money from the Build Indiana Fund. He stated that the people who need the public mass transit systems are poor people who need to get to work.

Rep. Crooks stated that he is in support of helping short line railroads but opposes this proposal. He suggested other options such as receiving money from the Build Indiana Fund or making a straight budget request.

Sen Meeks stated that he offered the proposal because he felt the issue needed to be debated. Sen. Meeks asked InDOT look at alternative ways to help the short line railroads. He suggested that the \$500,000 that InDOT couldn't take a few years ago for the railroad grade crossing fund go to the short lines. He stated that the short line railroads are an important tool in economic development. He stated that he will be looking for InDOT's proposal to increase funding for short line railroads.

Rep. Alderman stated that the state invests a lot of public money to fund the public mass transit systems. He indicated that there has never been a study of the effectiveness of the use of these systems. He observed that in Fort Wayne he often sees a large bus with only one rider. He stated that very little has been done to make these dollars cost effective.

Mr. Buckel, InDOT, stated that historically, Fort Wayne has been a poor performer. He stated that buses are full during the peak times and emptier during the non-peak periods. He remarked that this is also true with regard to traffic on the highways.

⁶ A copy of the Indiana Public Transit 1997 Annual Report is on file at the Legislative Information Center (See footnote 1).

⁷ Materials concerning the proposed change in the funding distribution from the public mass transit fund are on file at the Legislative Information Center (See footnote 1).

Sen. Meeks stated that the Committee would move onto the issue of state funds used for maintenance of railroad crossings. Ms. Carolyn Elliott, IRTG, discussed the cost of shifting the maintenance responsibility for railroad crossings in the manner of the Michigan legislation.⁸

Sen. Meeks asked Mr. Thomas what his railroad's actual expenses were for crossing maintenance for calendar year 1997. Mr. Gerry Thomas stated that they spend about \$2500 per year on each crossing with gates. He stated that Federal law mandates monthly inspections of crossings. Mr. Secor stated that they spend \$150,000 per year for the maintenance of railroad crossings with active devices.

Sen. Meeks stated that the cost of maintaining crossings is about \$2.1 million per year. He indicated that the legislature could not mandate the local units to pay for this. Carolyn Elliott indicated that she could give the Committee the statistics on what the short lines spend maintaining crossings.

Ms. Cris Klika, InDOT, stated that just 8% of the 6500 crossings cross a state highway, so the lion's share of crossings are on local roads. She stated that the Michigan law doesn't cover the cost of surface work which is what most of what InDOT's complaints are about.

Mr. Steve Hull, InDOT, stated that the law is explicit that the railroad is responsible for crossing maintenance.⁹ InDOT may not use 100% state money for this. Federal money may be used for repair of railroad crossings, but not maintenance of the surface. The federal regulations say that when you work on lights and gates, you can spend some on surface work. He stated that not more than half of the \$5 million in federal money can be used for surface work. InDOT only does the necessary surface work, but even this amounts to \$2 million of the \$10 million spent on rail projects.

Mr. Steve Hull stated that InDOT looked at the Michigan law in terms of crossing light devices. He stated that InDOT does not have data for surface maintenance. He stated that each railroad probably spends a different amount on this. He explained that the Michigan bill does two things: (1) The state contributes to the cost of maintaining crossings; and (2) the state pays only half the construction amount of the crossing. In Indiana, InDOT pays 100% of the construction costs. If Indiana made railroads responsible for crossing construction, it would cost the railroads \$3 million per year. The railroads would get about \$2 million back per year for the crossing maintenance costs. He stated that InDOT cannot give federal money back to the railroads for crossing maintenance because the federal money has strings attached.

Sen. Meeks asked about the appropriation to the railroad grade crossing fund. He stated that none of this money was spent or encumbered in 1998. An InDOT representative stated that there is \$557,000 in the railroad grade crossing fund. At the last meeting, Mr. Ron Thomas, InDOT, explained that all of the 1998 money is obligated and all but \$9,000 for fiscal year 1999 is obligated. Ms. Cris Klika stated that since Ron Thomas came on board things have moved very quickly. Ms. Cathy Hale, IRTG, stated that Ron Thomas has done a good job in processing their requests. Sen.

⁸ Michigan Enrolled Senate Bill 646 and a handout of 1998 Indiana Rail Crossing Statistics are on file at the Legislative Information Center. (See footnote 1).

⁹A handout concerning cost data for crossing maintenance is on file at the Legislative Information Center (See footnote 1).

Meeks stated that they are entering a new budget biennium. He stated that If railroad safety projects are to get more money, InDOT needs to spend what they currently have.

Rep. Stevenson stated that he thinks this concept is worthy of further investigation but would like to know the cost. Sen Meeks asked what if the state mandated maintenance of all or a portion of the crossings. Mr. Steve Hull, InDOT, stated that 2400 of the total crossings cross local roads and 540 cross state highways. In terms of maintenance, this would put a cost of \$1.7 million dollars on the local units and \$430,000 on InDOT. Rep. Stevenson stated that there would have to be state assistance to the locals.

A letter from Tom Sherron, General Manager, Kosciusko Area Bus Service, commenting on the reduction in PMTF funds was distributed.¹⁰

Sen. Meeks asked InDOT and the railroads to get together and create a proposal to solve the crossing maintenance problem. Sen. Meeks scheduled the next meeting of the Committee for November 16, 1998.

Mr. Matt Brooks, Association of Indiana Counties, stated that his organization wants to look at the problem of trains blocking crossings. Rep. Crooks stated that Vincennes passed an ordinance prohibiting trains during certain hours.

Sen. Meeks stated that the Committee will meet in November if the request to the Legislative Council for an extension is approved. He stated that at the next meeting the Committee would look at the distribution of the \$557,000 in the railroad grade crossing fund and how it is encumbered. He stated that 63% of the time frame has passed for spending this money. He stated that for the next meeting InDOT should provide a fiscal note on the Michigan proposal and a fiscal note on the proposal formulated with the railroads.

Sen. Meeks adjourned the meeting at 12:15 p.m.

¹⁰The letter is on file at the Legislative Information Center (See footnote 1).